

CHAPTER 82 WEIGHTS AND MEASURES

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SUBCHAPTER 1 GENERAL REGULATIONS

82-1. Peddlers and Transient Merchants.

1. SCALES TO BE CHECKED. All itinerant peddlers and hawkers and all transient merchants shall, before making any use of any weights, scales, measures or weighing or measuring devices, cause the same to be taken to the office of the sealer of weights and measures and have the same adjusted and sealed annually with the seal for the year during which the same is to be used.

2. TO NOTIFY SEALER. Any person, firm or corporation who shall acquire or have in his or its possession, after this chapter shall take effect and be in force, any scales or weighing instruments or nonportable measures or measuring devices to be used in the sale or purchase of any article or thing for hire shall notify the sealer of weights and measures at his office that he has the same, giving a general description thereof, and the street and number of the place where same may be found. It shall be the duty of the sealer to acknowledge in writing forthwith the receipt of any such notice.

3. DEVICE SEALED. Any person, firm or corporation who shall acquire or have in his or its possession, after this chapter shall take effect and be in force, any portable measures or measuring devices to be used in the sale or purchase of any article or thing, or for hire, shall cause the same to be taken to the office of the sealer of weights and measures and shall not use the same until sealed by said sealer.

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4. MOVING TO NEW LOCATION.

Any person, firm or corporation who shall have in his or its possession any weighing or measuring device previously sealed and who shall move his or its place of business to a new location shall, at least 48 hours before using the said weighing or measuring devices at said new place of business, notify the sealer of weights and measures of his or its new business location. (*File #46389, March 9, 1931.*)

82-2. Use of False Weights and Measures;

Penalty. Any person who, by himself or by his servant or agent, or as the servant or agent of another, shall use or retain in his possession any false weight or measure or any weight or measure or weighing or measuring device to be used in the buying or selling of any commodity or thing which has not been sealed by the sealer of weights and measures according to this chapter, or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall use, with or without an intent to defraud, in the buying or selling of any commodity or thing any false, defective or inaccurate weighing or measuring device; or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall, with or without an intent to defraud, sell or offer or expose for sale, or keep for the purpose of sale a lesser quantity of any commodity than the quantity he represents it to be; or who shall in the purchase or offer of purchase of any commodity or thing represent such commodity or thing to be of a lesser quantity than its true quantity; or who, by himself or by his servant or agent or as the servant or agent of another, shall use any false weight or measure in buying or selling any commodity or thing, or shall sell or offer for exchange for sale, or keep for the purpose of sale, any commodity in manner contrary to law or this chapter; or any person who, by himself or by his servant or agent, or as the servant or agent for another, shall sell or offer to sell or have in his possession for the purpose of selling, any device or machine to be used or calculated to falsify any weight or measure shall upon conviction forfeit to the city a penalty of not less than \$25, nor more than \$500. (*File #48-2621, Feb. 14, 1949.*)

82-3. Dry Commodity Standards. 1. BY BUSHEL. Whenever any of the articles or commodities mentioned in this section shall be sold in the city by the bushel or fractional part thereof, and no special agreement as to weight thereof shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight and shall be computed as follows:

- a. 60 pounds for a bushel of wheat, peas, potatoes, clover seed, beans, alfalfa or alsike (clover).
- b. 56 pounds for a bushel of Indian corn, rye, lima beans, wrinkled peas, flaxseed, rutabagas or tomatoes.
- c. 54 pounds for a bushel of sweet potatoes.
- d. 50 pounds for a bushel of corn meal, rapeseed, millet seed, beets, green cucumbers, rye meal, carrots, buckwheat, hickory nuts, onions or fine salt.
- e. 48 pounds for a bushel of barley, peaches, pears or Hungarian grass seed.
- f. 14 pounds for a bushel of blue grass seed or red top seed.
- g. 46 pounds for a bushel of castor beans.
- h. 45 pounds for a bushel of timothy seed or rough rice.
- i. 44 pounds for a bushel of hemp seed, parsnips, apples or sea island cotton seed.
- j. 42 pounds for a bushel of turnips.
- k. 35 pounds for a bushel of cranberries.
- L. 34 pounds for a bushel of barley malt.
- m. 33 pounds for a bushel of dried peaches.
- n. 32 pounds for a bushel of oats or onion sets.
- o. 30 pounds for a bushel of upland cotton seed.
- p. 25 pounds for a bushel of dried apples.
- q. 20 pounds for a bushel of bran or shorts.
- r. 70 pounds for a bushel of coarse salt or lime.
- s. 80 pounds for a bushel of unslaked lime.
- t. 8 pounds for a bushel of plastering hair. For a fractional part of a bushel, a like fractional part of the above weights shall be required.

2. STANDARD DRY MEASURE. All dry commodities not otherwise specified in this section shall be bought or sold only by standard dry measures, standard weights or numerical count except where parties otherwise agree in writing. (*File #9722, Oct. 25, 1915.*)

82-4. Standard Bushel. The bushel in struck measure shall contain 2,150.42 cubic inches. The 1/2 bushel and parts thereof shall correspond in capacity to that of the bushel and shall be the standard measure for fruits, vegetables and other dry commodities customarily sold by heaped measure, in measuring such commodities; the 1/2 bushel or other smaller measure shall be heaped as high as may be without special effort or design. (*File #5723, Feb. 2, 1914.*)

82-5. Packaged Food Articles. 1. QUANTITY TO BE MARKED. All articles or food sold or exchanged, or kept, exposed or offered for sale or exchange within the city in package form shall have the same actual quantity of the contents plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; reasonable variations shall be permitted from such stated weight, measure or numerical count in accordance with the tolerances and the rules and regulations established by the Wisconsin state department of agriculture, trade and consumer protection.

2. PENALTY. Any person violating this section shall forfeit a penalty of not less than \$25 nor more than \$500 for each offense. (*File #64-3148-a, Jan. 12, 1965.*)

82-6. Sale of Milk or Cream in Bottles.

1. STANDARD MEASUREMENTS. Bottles or jars used for the sale of milk or cream shall be of the capacity of 1/2 gallon, 3 pints, one quart, one pint, 1/2 pint, one gill, when filled full to the bottom of the cap seat, stopple or other designating mark.

2. VARIATIONS. a. The following variations on individual bottles or jars may be allowed, but the average contents of not less than 25 bottles selected at random from at least 4 times the number tested must not be in error by more than 1/4 of the tolerances:

a-1. 6 drams above and 6 drams below on the 1/2 gallon.

a-2. 5 drams above and 5 drams below on the 3-pint.

a-3. 4 drams above and 4 drams below on the quart.

a-4. 3 drams above and 3 drams below on the pint.

a-5. 2 drams above and 2 drams below on the 1/2 pint.

a-6. 2 drams above and 2 drams below on the gill.

b. When milk or cream is pasteurized in the bottle in which it is to be sold or delivered, such bottle must have a capacity sufficient to permit of the expansion of the contents in the process of heating, but such bottle shall have clearly marked thereon by a line or other designating mark the points to which such bottle is filled when containing the respective capacities provided for in this section, at 68°F or 20°C.

3. SEALER. The sealer shall enforce the rules and regulations prescribed and adopted by the state superintendent of weights and measures and measures relating to the capacity of bottles used for the sale of milk and cream. Bottles or jars used for the sale of milk shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "sealed," and in the side or bottom of the bottle the name, initials or the trademark of the manufacturer and the designating number, as provided for in ch. 566, laws of Wisconsin, 1911.

4. EFFECTIVE DATE. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles purchased after March 2, 1914, that do not comply with the requirements of this section as to the markings and capacity, shall be deemed guilty of using false or insufficient measure.

5. COMPLIANCE. The sealer of weights or measures is not required to seal bottles or jars for milk or cream marked as provided in this section, but he shall from time to time make tests on individual bottles used by the various dealers in the city in order to ascertain whether the provisions [in this section] are being complied with. (*File #9722, Oct. 25, 1915.*)

82-7. Standard Barrels and Boxes. 1. A liquid barrel shall contain 31-1/2 gallons and a hogshead, 2 barrels; aliquot parts of a barrel shall contain the proportionate number of gallons. A barrel for beer, ale, porter or other

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similar fermented liquors shall contain 31 gallons. Each gallon to contain 231 cubic inches; a 1/2 barrel 15-1/2 gallons; a 1/4 barrel 7-3/4 gallons; an 1/8 barrel 3-7/8 gallons. The capacities of the barrel and its subdivisions enumerated shall apply to all containers in which beer, ale, porter or other similar fermented liquors are commonly sold, known as barrels, kegs, casks, or any other container made of staves, hoops and flat heads.

2. A liquid gallon shall contain 231 cubic inches.

3. A barrel of flour measured by weight shall contain 196 pounds.

4. A barrel of potatoes or other vegetables shall be the same as the standard barrel for apples or pears or other fruits, as provided in sub. 6.

5. A barrel of unslaked lime shall contain 200 pounds.

6. The standard barrel for apples or pears or other fruit, unless otherwise specifically defined, shall have an inner capacity of 7,056 cubic inches and shall not be less than 26 inches between the heads inside; the diameter of the heads shall be 17-1/8 inches, including the beveled edge; the outside bilge or circumference shall not be less than 64 inches, the thickness of the staves being 4/10ths of an inch; provided, however, that any barrel of a different form but of an interior capacity of 7,056 cubic inches shall be a legal barrel.

7. The standard barrel for cranberries shall measure not less than 25-1/4 inches between the heads inside; the diameter of the head shall be 16-1/4 inches, including the beveled edge; the outside bilge, or circumference, shall measure not less than 58-1/2 inches, the thickness of the staves being 4/10th of an inch. But any barrel of different form, but of the same interior capacity, shall be considered a legal barrel. (*File #9722, Oct. 25, 1915.*)

82-8. Standard Crates. 1. A standard crate for apples, pears, plums, peaches and other fruits, not secondarily contained in quart or other boxes within such crate, shall have an interior capacity of not less than 2,150 cubic inches exclusive of cover. (*File #51-3300, Mar. 25, 1952.*)

2. A bushel crate of cranberries and blueberries shall have an interior capacity of one bushel struck measure.

3. All sales of blackberries, blueberries, currants, gooseberries, raspberries, cherries, strawberries and similar berries in quantities of less than one bushel shall be by the quart, pint, or 1/2 pint dry measure, and all berry boxes or baskets sold, used or offered for sale within the city shall be of the interior capacity of not less than one quart, one pint, or 1/2 pint dry measure.

4. All sales of fresh fruits or vegetables in containers of less than one bushel dry capacity measure shall be in containers of the standard capacity of one quart, 2 quarts, 3 quarts, 4 quarts, 5 quarts, 6 quarts, 8 quarts, 16 quarts, or 24 quarts standard dry measure, and such receptacles shall in fact contain the full capacity of such fresh fruits or vegetables, or if in other than standard containers, such receptacles for fresh fruits or vegetables shall be plainly and conspicuously marked to indicate the true net weight, measure or numerical count of such fruits or vegetables. (*File #9722, Oct. 25, 1915.*)

82-9. Fruit and Berry Containers.

1. **STANDARDS.** All contracts for the sale of fruits, berries or vegetables by the barrel or crate, unless otherwise expressly stipulated in writing, shall be construed to mean barrels or crates of the capacity herein prescribed. The sealer of weights and measures shall not be required to seal the containers designated in this section.

2. **FULL CAPACITY.** It shall be and is declared unlawful for any person or persons to sell, offer for sale or otherwise dispose of for profit, unless otherwise expressly stipulated in writing, any berries or fruit within the city unless the crates, baskets, boxes, barrels or packages wherein the same are contained shall be of full interior capacity required for sale in the state of Wisconsin.

3. **PENALTY.** Any person violating this section shall forfeit a penalty of not less than \$25 nor more than \$100; and the illegal crates, boxes, barrels, packages or baskets, and the fruit or vegetables contained may be confiscated. (*File #9722, Oct. 25, 1915.*)

82-10. Weight to Mean Net Weight. When any commodity is sold by weight it shall be understood to mean net weight, and all contracts concerning goods or commodities sold by weight shall be construed accordingly unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. When any commodity is sold by the ton, it shall be understood to mean the net weight of 2,000 avoirdupois pounds unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. (*File #5723, Feb. 2, 1914.*)

82-11. Grain Measure, Bushel. No person shall sell, buy or receive in store for profit any grain at any weight or measure per bushel other than the standard weight or measure per bushel fixed by law, unless otherwise expressly stipulated in writing, and for any violation hereof the offender shall forfeit not less than \$5 nor more than \$50. (*File #5723, Feb. 2, 1914.*)

82-12. Sale of Fruits and Berries, Quality. All fruits and berries, fresh or dried, sold or offered for sale in the city in packages, shall be of equally good quality in every part of the package. Any person violating this section shall upon conviction thereof be fined not less than \$5 nor more than \$25.

82-13. Sale of Coal or Coke. 1. REGULATIONS. It shall be unlawful to sell or offer to sell in the city any coal, charcoal or coke in any other manner than by weights.

a. Receipt Required. No person, firm or corporation shall deliver any coal, charcoal, or coke without each such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, charcoal or coke contained in the cart, wagon or other vehicle used in such deliveries, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the sealer of weights and measures, or his deputy or inspectors, upon demand, for his inspection, and the

duplicate ticket or weight slip issued by the dealer shall be delivered to said purchaser of said coal, or his agent or representative, at the time of the delivery of the fuel.

b. Carry Out Purchase; Content. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered over to the purchaser must be given to the purchaser at the time the sale is made. No coal or coke shall be sold in the city which contains more water or other liquid substance than that due to the natural condition of the coal or coke at the time the weight is taken for the purpose of sale.

2. VERIFICATION OF WEIGHT. a. Whenever the sealer or his deputy or inspectors shall demand that the weight shown by any coal delivery ticket be verified, it shall thereupon become the duty of the persons, firm or corporation delivering such fuel to convey the same forthwith to the nearest public scale, to be selected by the sealer, or his deputy, or inspectors in the particular locality where the coal or coke is to be delivered, or to the nearest scale in the particular locality where the owner thereof shall consent to such use, and permit the weighing of the coal or coke, together with the conveyance and equipment for the purpose of ascertaining the gross weight thereof, and shall, after the delivery of such fuel, return forthwith with the conveyance and equipment used in the delivery of such coal or coke to the same scale and permit the weighing of the said conveyance and equipment for the purpose of verifying the net weight of the coal or coke as shown by said ticket.

b. When any coal or coke is sold in bags or packages of any kind, such bags or packages shall have plainly marked thereon the quantity contained therein. In the event that coal or coke is sold or offered for sale by a peddler, such peddlers shall deliver to the purchaser or intended purchaser, or to the sealer of weights and measures, or his deputy or inspectors, upon his demand, a delivery ticket bearing the name of such peddler, his license number, if any, and showing the net weight of the fuel sold or offered for sale.

3. PENALTY. Any person who, either as principal, agent or servant, shall deliver or attempt to deliver a less quantity of

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coal or coke than that shown upon the delivery ticket in sub. 1-a shall forfeit to the city a penalty of not less than \$25 nor more than \$200; and any person who shall violate any of the provisions of this section shall forfeit to said city a penalty of not less than \$25 nor more than \$100. (*File #5723, Feb. 2, 1914.*)

82-14. Weighing or Measuring Device License.

1. REQUIRED. No person, firm or corporation may operate or maintain weights and measures, weighing or measuring devices and systems and accessories relating thereto which are used commercially within the city in determining the weight, measure or count of commodities or cost of services or things bought or sold or offered or exposed for sale on the basis of weight, measure or count unless each such device is specifically licensed, is accurate and is operated in compliance with this section. A public or nonpublic vehicle scale which has a valid license or registration certificate as set forth in s. 82-30 shall be exempt from this requirement. Public utility systems that operate meters, other weighing and measuring devices and are regulated by the Wisconsin public service commission as set forth in s. 196.16, Wis. Stats., are exempt from licensing under this section. Postal scales under the control of the state or federal government are also exempt from this requirement. A vehicle tank meter which has a valid license or inspection certification issued by another city within the state or by the state of Wisconsin shall be exempt from this requirement provided the operator provides proof of licensing or inspection.

2. APPLICATION. Application for a weighing or measuring device license shall be made in writing on a form provided for such purpose by the commissioner of health. The application shall state the specific descriptions and identifications of each weighing and measuring device to be licensed, the location of the devices, the applicant's full name and post office address and whether the person is an individual, firm or corporation and, if a partnership, the names of partners together with their addresses, and the signatures of the applicants. No device shall be added to any premises and put into use during the license year unless application is first made, a fee paid and a license issued for that device.

3.a. ISSUANCE: FEES AND LICENSES. The commissioner of health shall annually issue a license for each weighing and measuring device operated by the applicant if the requirements of this section have been complied with and payment has been made to the city treasurer of the fee required in s. 60-91. The commissioner shall annually inspect and affix a seal on each device that meets the requirements of this section. No device may be operated without a current license and seal.

b. The late renewal fee for licenses issued under s. 60-91 may not be waived unless definite proof exists that the delay is the fault of the department of health.

4. DISPLAY OF LICENSE. All persons who obtain licenses under this section shall immediately post their license upon some conspicuous part of the premises on which the business is carried on and the same shall remain posted during the period for which the license is in force.

5. TRANSFERABILITY. No device may be moved or transferred to another premises in the city and put into service, whether operated by the same owner or not, unless application is made first, a new fee paid and a license issued. However, licenses may be transferred from one owner to another if the devices are not moved from the premises in which they are originally inspected and licensed and provided that an amended application is filed with the commissioner prior to use of the devices by the new owner.

6. ORDERS, SUSPENSION, REVOCATION. a. Orders; Suspension of Licenses. Notwithstanding the other provisions of this section, whenever the commissioner finds that any licensed device is inaccurate or operated in such a manner that there are serious or repeated violations of this section or violations of any provisions of the code or regulations of the city, the laws of the state of Wisconsin or regulations of the national bureau of standards relating to weights and measures, the commissioner may without warning, notice or hearing, issue a written notice to the license holder, operator or employee in charge of the licensed device citing such condition and specifying the corrective action to be taken and, if deemed necessary, such order shall state that the license is immediately suspended and the use of the device is to be discontinued.

A person to whom such an order is issued shall comply immediately, but upon written petition to the commissioner shall be afforded a hearing before the food license review board within 10 days of the petition. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension.

b. **Revocation of Licenses.** For flagrant or repeated violations of any of the requirements of this section, or for interference with the commissioner in the performance of his or her duties, the license may be revoked after an opportunity for hearing has been provided by the food license review board. Prior to such action, the commissioner shall notify the license holder in writing, stating the reasons for which the license is subject to revocation, and advising that the license may be revoked at the end of 5 days following service of notice, unless a request for a hearing is filed with the commissioner by the license holder within the 5-day period.

c. **Hearings.** The hearings provided for in this section shall be conducted by the food license review board at a time and place designated by the commissioner of health. Based upon the record of such hearing, the commissioner shall be charged with enforcing the decisions of the board. A written report of the hearing decision shall be furnished to the license holder by the commissioner.

(History: Section 82-14 cr. File #84-1062, Nov. 13, 1984.

82-14-1-a am. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-1 am. File #910063, Jan. 21, 1992; eff. Feb. 7, 1992.

82-14-3 am. File #881803, Jan. 24, 1989; eff. Feb. 11, 1989.

82-14-3 m. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-3-b cr. File #882269, May 16, 1989; eff. June 3, 1989.)

82-16. Sale of Firewood. 1. **STANDARD CORD.** The standard measurement of a cord of firewood is fixed and established at 128 cubic feet. *(File #9722, Oct. 25, 1915.)*

2. **DELIVERY TICKET.** It shall be unlawful to sell or offer for sale or expose for sale within the city any wood designed for fuel purposes in any other manner than by weight or measure. No person, firm or corporation

shall deliver any firewood without such delivery being accompanied by a delivery ticket and duplicate thereof, which delivery ticket shall distinctly express in cords or fractional parts thereof or, if sold by weight, distinctly express in pounds the gross weight of the load, the tare of the delivery vehicle, the quantity or quantities of wood contained in the vehicle used in such deliveries, together with the name of the purchaser thereof and the name of the dealer from whom purchased. One of these tickets shall be tendered to the sealer of weights and measures or his deputies or inspectors upon demand for his inspection, and the duplicate ticket issued by the dealer shall be delivered to said purchaser of said wood or his agent or representative at the time of the delivery of the said wood. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds or cords or fractional parts of cords delivered over to the purchaser must be given to the purchaser at the time of the sale.

3. **PENALTY.** Any person, firm or corporation violating this section shall forfeit to the city a penalty of not less than \$25 nor more than \$100. *(File #41176, Apr. 8, 1929.)*

82-19. Coin-in-the-slot Machine, Maintenance.

1. **TO BE KEPT IN WORKING ORDER.** No person, firm or corporation shall erect, operate or maintain, or cause to be erected, operated or maintained, any coin operated machine or automatic vending device without placing in charge thereof some person. The person in charge of such machine or device shall be held responsible for maintaining or operating, or causing to be maintained or operated, any such machine or device which is not in perfect working order. No such machine or device shall be maintained for use when the same is not in perfect working order. *(File #73-2157, May 21, 1974.)*

2. **PLACARDING.** a. **Name of Owner, Person in Charge, etc.** Except as otherwise specifically provided in pars. b and c, a placard shall be placed on every such machine or device in a conspicuous place which shall contain the name of the owner and the name of the person in charge, if different than the owner, of such machine or device including the current address of such persons and the telephone number at which the person in charge can be reached during normal

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daytime working hours and shall also state that the person in charge of such machine or device will refund to any person money deposited for which service has not been received, and it is made the duty of such person to do so. On premises having an attendant on duty at all times it is open to the public, the placard required above may, in lieu of stating a telephone number for refund purposes, state that the attendant may be contacted for reimbursements if the owner has authorized this practice. Such attendant must be easily identified and readily available. (*File #75-1037, Sept. 30, 1975.*)

b. Multiple Machines. Whenever multiple coin-operated machines are located in the same room and all such machines are owned or operated by the same owner or person in charge, one or more placards, containing the information required in par. a and which information is prominent and easily read from the entire working area of that room, may be posted and substituted for individual placards on each machine. (*File #74-1946, May 6, 1975.*)

c. Exception. An exception will be granted to the following types of establishments whereby the name and address of the owner or the person in charge referred to in par. a need not be posted, however the method for reimbursement and all other information required in par. a shall be posted: Self-service laundries as regulated in s. 75-1. (*File #75-1037, Sept. 30, 1975.*)

3. PENALTY. Any person, firm or corporation violating this section shall forfeit to the city a penalty of not less than \$10 nor more than \$100, and in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county not less than 10 nor more than 30 days. (*File #73-2157, May 21, 1974*)

82-22. Penalty, General. Any persons or corporation who shall violate any of the provisions of this chapter for which a specific penalty is not hereinbefore imposed shall upon conviction thereof be punished by a fine of not less than \$10 nor more than \$500 for each offense, and in the default of payment thereof shall be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 90 days. Any person convicted of the violation of any section of this chapter for which a specific penalty is provided in said section shall upon default of payment of such fine or penalty be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 90 days. (*File #48-2622, Feb. 14, 1949.*)

SUBCHAPTER 2
SCALES AND WEIGHER (VEHICULAR)

82-23. Definitions. The following definitions shall apply in the interpretation and enforcement of ss. 82-23 to 82-32:

1. **BULK COMMODITY** shall mean any material of any kind which is sold or intended to be sold in terms of weight units, or for which a service charge is levied on the basis of weight units of that commodity.

2. **COMMISSIONER OF HEALTH** shall mean the appointed health authority of the city of Milwaukee or his authorized representative.

3. **CONSUMER** shall mean any individual, firm, corporation, association or partnership who purchases or receives commodities or items for personal and final use, and such commodities or items will not be offered to another in the same or an altered form.

4. **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except railroad trains.

5. **VEHICLE SCALE** shall mean an installed scale which has a load receiving element adapted to determine the weight of vehicles, loaded or unloaded.

6. **VEHICLE SCALE, NONPUBLIC** shall mean any vehicle scale used exclusively by the operator to make weight determinations for commercial purposes of products, commodities, produce, or articles manufactured, produced, owned by, consigned to, sold by or purchased by the operator of the vehicle scale.

a. Vehicle scale, type I nonpublic, shall mean a nonpublic vehicle scale which is used regularly or, on occasion, to weigh commodities or items which will be sold or offered to consumers.

b. Vehicle scale, type II nonpublic, shall mean a nonpublic vehicle scale which will not be used to weigh commodities or items which will be sold or offered to consumers.

c. Vehicle scale operator, nonpublic, shall mean any individual, firm, partnership, or corporation engaged in the operation of any nonpublic vehicle scale located within the city.

7. a. **VEHICLE SCALE, PUBLIC** shall mean any vehicle scale upon which any vehicle is weighed if:

a-1. The weighing is in any way intended, either directly or indirectly, to determine the weight of commodities which will be or have been offered for sale, sold, awarded, or hired, and/or

a-2. The weighing is in any way intended to compute any charge or payment for services rendered on the basis of weight or measures, and

a-3. Such scale is represented to render accurate weighings, or

a-4. Certificates are provided setting forth the weights as a result of such weighing, or

a-5. Charges are made, either directly or indirectly, to those who use the scale;

b. Provided, however, that "public vehicle scale" shall not necessarily include any scale on which all of the vehicles weighed are owned by or are under the control of the individual, firm, partnership, or corporation which operates the scale and the weighing of which is necessary to complete a transaction related to the business of such individual, firm, partnership or corporation.

8. **VEHICLE SCALE OPERATOR, PUBLIC** shall mean any individual, firm, partnership, or corporation engaged in the operation of any public vehicle scale located within the city.

82-24. Enforcement. 1. **AUTHORITY.** The commissioner of health is authorized to enforce the provisions of this subchapter, and he may from time to time make and adopt rules and regulation as may be necessary for its proper enforcement.

2. **REGULATIONS.** The commissioner of health shall file a certified copy of all rules and regulations which he may adopt with the city clerk and a certified copy of such rules and regulations shall also be on file in the office of the commissioner of health. Such rules and regulations shall have the same force and effect as the provisions of this subchapter, and the penalty for violations thereof shall be the same as the penalty for violations of this subchapter as hereinafter provided.

82-25 Weights and Measures

82-25. Public Vehicle Scale Operator License. No scale operator shall operate a public vehicle scale unless he holds a valid public vehicle scale operator's license issued by the commissioner of health. The commissioner of health shall issue, in the name of the operator, a public vehicle scale operator's license if all the following requirements of this section have been met:

1. **APPLICATION.** The operator shall apply for license and pay the license fee in accordance with s. 82-30.

2. **COMPLIANCE.** The operator shall comply with all rules and regulations of the commissioner of health adopted in conformity with s. 82-24.

3. **SCALE SIZE.** The vehicular scale shall be rated by the commissioner of health for the length of trucks which may be weighed.

4. **SCALE OPERATION.** The scale and manner of scale operation shall comply with all applicable city ordinances and Wis. Stats.

5. **MAINTENANCE.** The scale shall be maintained in good operating condition.

6. **CALIBRATION.** The scale shall be serviced and calibrated at regular intervals, and the operator shall promptly cause such servicing and calibration to be performed whenever ordered to do so by the commissioner of health.

7. **CHECKED.** The commissioner of health shall have the scale checked for accuracy and adequacy of operation prior to issuance of a license and as often thereafter as he deems necessary. The operator shall charge no fee for such weighings.

8. **FEE SCHEDULE.** Scale ratings and limitations, as well as a schedule of fees and a schedule of days and hours for public weighing, shall be prominently and clearly posted at all entrances to the scale. The commissioner of health shall be notified 60 days in advance of any changes in the fee or time schedules and such proposed changes shall be posted next to the existing schedules.

9. **LICENSED OPERATOR.** The operator shall permit only licensed weighmasters, as described in s. 82-27, to operate the scale.

10. **TRIPLE COPIES.** The operator shall receive from each licensed weighmaster operating the scale a third copy of each weighing certificate completed by each such weighmaster, and the operator of the scale

shall retain each such copy on file at the scale site for a minimum period of one year. The file shall be open for inspection by the commissioner of health at any time during the operating hours.

11. **FIRST-COME SERVICE.** During hours of public weighing, anyone desiring the weighing of a vehicle shall be guaranteed that right on a first come-first served basis without other priority. (*Section 82-25 am. File #69-2662-c, Dec. 7, 1971.*)

82-26. Nonpublic Vehicle Scale Operator Permit or Registration Certificate. No nonpublic vehicle scale operator shall operate a nonpublic vehicle scale unless he holds a valid type I nonpublic vehicle scale permit or a valid type II registration certificate issued by the commissioner of health. The commissioner of health shall issue, in the name of the operator, a type I nonpublic vehicle scale operator's permit or type II registration certificate if all the requirements, except under s. 82-25-3, 8, 9 and 11 dealing with operators of public vehicle scales, have been met. Such permit or registration certificate, issued to the operator of the particular scale, shall also serve to allow that operator to act as the weighmaster of that scale, without further license, subject to the provisions of s. 82-27 with the exception of sub. 1. No nonpublic vehicle scale operator holding a type II registration certificate shall conduct or allow weighings on that scale which are limited to type I nonpublic vehicle scales. (*Section 82-26 am. File #69-2662-c, Dec. 7, 1971.*)

82-28. Weight Certificate. The commissioner of health shall prescribe the form of weight certificate to be used by all public vehicle scale operators and all nonpublic vehicle scale operators whose scales are located within the city. All such certificates shall be printed at a cost to be borne by the operators of such scales. (*Section 82-28 am. File #69-2662-c, Dec. 7, 1971.*)

Section 82-28 am. File # 030504, Nov. 14, 2003; eff. Jan. 1, 2004.)

82-30. Licensing of Scales; Fees. 1. **APPLICATION.** Application for public vehicle scale operator's license, type I nonpublic vehicle safety operator's permit or type II registration certificate shall be made upon forms provided by the commissioner of health.

2. COMPLIANCE. When the commissioner of health determines that a license, permit, or registration certificate applicant has complied with the provisions of this subchapter, and the provisions of all the rules and regulations adopted by him pursuant to the provisions of this subchapter, he shall issue the license, permit, or registration certificate requested by the applicant upon payment by the applicant of the appropriate fee as specified in this section.

3. LICENSE FEES. See s. 60-85 for the required fees.

4. EXPIRATION DATE. See s. 60-85-1 for the required license expiration date. (*Section 82-30 am File #69-2662-c, Dec. 7, 1971.*

Section 82-30-3 am File #881803, Jan. 24, 1989; eff. Feb. 11, 1989.

Section 82-30-4 am File #881803, Jan. 24, 1989; eff. Feb. 11, 1989.

Section 82-30-1 am File #030504, Nov. 14, 2003; eff. Jan. 1, 2004.)

82-31. Revocation. The commissioner of health is authorized to suspend or revoke any license or permit which he has issued in conformity with the provisions of this subchapter if:

1. He is satisfied, after holding a public hearing upon at least 10 days' notice to the licensee or permit holder, that the licensee or permit holder has violated any provisions of this subchapter or any valid rule or regulation adopted pursuant to the provisions of this subchapter, or

2. A licensee or permit holder has been convicted in any court or competent jurisdiction of violating any provision of this subchapter or of any rule or regulation adopted under the authority of this subchapter. (*Section 82-31 am File #69-2662-c, Dec. 7, 1971.*)

82-32. Penalties. Any person, firm, partnership, or corporation who violates any provision of this subchapter or any rule or regulation adopted pursuant thereto shall, upon conviction thereof, be punished, in addition to any other penalty provided by law, by a fine of not less than \$25, and not more than \$200, together with the costs and disbursements of prosecution, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs, and disbursements are paid, such

imprisonment not to exceed 30 days. After conviction for violation of any notice or order of the commissioner of health based upon any provision of this subchapter, or any provision of any rule or regulation adopted by the commissioner of health pursuant to the authority granted by this subchapter, if such person shall continue in violation of that notice or order, then such person shall be liable for further prosecution, conviction and punishment based upon that same notice or order, without the necessity of the commissioner of health issuing a new notice or order, until such notice or order has been complied with. (*Section 82-32 am File #69-2662-c, Dec. 7, 1971.*)

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SUBCHAPTER 3
WEIGHTS AND MEASURES PROGRAM

82-41. Weights and Measures Program. There is created in the health department a program which shall be known as the weights and measures program. The program shall be under the administrative control and direction of the commissioner of health. The commissioner shall have as assistants as many inspectors and such other assistants as the common council may from time to time determine.

(HISTORY: Section 82-41 m. from 2-170, File #881930, March 7, 1989; eff. March 25, 1989.

82-41 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-45. Inspectors. Inspectors shall be appointed by the commissioner of health pursuant to the civil service laws.

(HISTORY: Section 82-45 m. from 2-172, File #881930, March 7, 1989; eff. March 25, 1989.

82-45 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-47. Oath of Office. Each inspector shall, before entering upon their duties as an employe of the city, take the oath of office required by the city charter.

(HISTORY: Section 82-47 m. from 2-173, File #881930, March 7, 1989; eff. March 25, 1989.

82-47 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-49. Duties of Inspectors. The inspectors shall perform such duties as the commissioner of health shall direct.

(HISTORY: Section 82-49 m. from 2-174, File #881930, March 7, 1989; eff. March 25, 1989.

82-49 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-51. Official Standards of Weights and Measures. 1. The common council shall procure at the expense of the city and shall keep at all times a complete set of weights and measures, scales and beams in exact conformity with the state standards kept by the state superintendent of weights and measures, and the health department shall cause the same to be tried, proven, sealed and certified by the state superintendent of weights and measures. Said set of weights and measures,

scales and beams shall be deposited with and preserved by the commissioner of health, and shall be the public standards for the city.

2. The weights and measures described by the laws of the state of Wisconsin are declared to be the standard weights and measures of the city.

(HISTORY: Section 82-51 m. from 2-176, File #881930, March 7, 1989; eff. March 25, 1989.

82-51 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-53. Inspection of Weights and Measures; Right of Entry. 1. RIGHT OF ENTRY. The commissioner of health shall have the power within the city to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or mechanical devices for measurement, kept, offered or exposed for sale or sold.

2. AUTHORITY TO TEST. The commissioner shall within the city inspect, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or mechanical devices for measurement, used or employed within the city by any owner, agent, lessee or employe in determining the weight, size, quantity, extent, area or measurement of persons, quantities, services, things, produce or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire or award.

3. INSPECTION. a. The commissioner shall, as often as the commissioner may deem necessary, see that all weights, measures and weighing and measuring apparatus used in the city are correct. The commissioner and inspectors may, for the purpose stated in sub. 2, and in the performance of their official duties, with or without formal warrant, enter or go in or upon any stand, place, building or premises, and may stop any vendor, peddler, dealer or vehicle for the purpose of making the proper tests.

82-55 Weights and Measures

b. The commissioner shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind, kept for the purpose of sale, offered or exposed for sale, or sold, or in the process of delivery, in order to determine whether the same contain the amounts represented and whether they be offered for sale or sold in a manner in accordance with the law.

(HISTORY: Section 82-53 m. from 2-177, File #881930, March 7, 1989; eff. March 25, 1989.

82-53 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-55. Procedure in Case of Violation of Laws; Sealing. Whenever the commissioner of health finds a violation of the statutes or code provisions relating to weights and measures, the commissioner shall cause the violator to be prosecuted. Whenever an inspector compares weights and measures and finds that they correspond, or causes them to correspond with the standards in his possession, the inspector shall seal or mark the same with appropriate devices to be approved by the state superintendent of weights and measures. Inspectors shall condemn or seize, and may destroy incorrect weights and measures, and weighing or measuring instruments which cannot be repaired, or which have been falsified; and such as are incorrect and yet may be repaired, shall be marked or tagged as condemned for repairs, in a manner prescribed by the state superintendent of weights and measures. The owner thereof shall, within 10 days thereafter, have the same properly adjusted and sealed, and said inspectors may, at any time after the expiration of such period, seize or destroy all such weights, measures, weighing and measuring instruments which have not been corrected.

(HISTORY: Section 82-55 m. from 2-178, File #881930, March 7, 1989; eff. March 25, 1989.

82-55 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-57. Authority to Make Arrest; Badges. There is conferred upon the commissioner and inspectors police power, and in the exercise of their duties they shall wear badges bearing their photograph, name and official designation, and they are empowered and authorized to make arrests, with or without formal warrant, of any person violating the

provisions of any statute or the code relating to weights and measures.

(HISTORY: Section 82-57 m. from 2-179, File #881930, March 7, 1989; eff. March 25, 1989.

82-57 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000)

82-59. Alteration of Weights and Measures.

Every person who shall, with intent to use the same for weighing or measuring, alter or permit to be altered, or shall use or permit to be used after the same shall have been altered, any weight, measure, scale beam, steel yard, automatic or computing scale, or other instrument for weighing or measuring, after the same shall have been tested, marked and sealed as aforesaid, which by reason of such alteration shall not conform to the city standards, shall upon conviction be punished by a fine of not less than \$25 nor more than \$100, and every person who shall alter or detach any seal or tag impressed or attached by the inspectors shall upon conviction thereof be punished by a fine of not less than \$5 nor more than \$100.

(HISTORY: Section 82-59 m. from 2-180, File #881930, March 7, 1989; eff. March 25, 1989.

82-59 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-61. Refusal to Exhibit Weights and Measures.

Any person who shall refuse to exhibit any weight, measure, scale, scale beam, patent balance, steel yard, automatic or computing scale or other instrument used for weighing or measuring to said inspectors, for the purpose of having it inspected and examined, shall forfeit a penalty of not less than \$5 nor more than \$100 for each offense.

(HISTORY: Section 82-61 m. from 2-181, File #881930, March 7, 1989; eff. March 25, 1989.

82-61 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-63. Interference with Officers. Any person who shall in any way or manner impersonate, obstruct, hinder or molest the inspectors in the performance of their duties shall forfeit a penalty of not less than \$10 nor more than \$100 for each offense.

(HISTORY: Section 82-63 m. from 2-182, File #881930, March 7, 1989; eff. March 25, 1989.

82-63 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-65. Department Employes not to Vend Weights and Measures. It shall be unlawful for the commissioner of health or any person employed in the department to vend any weights, measures, scales, scale beams, patent balances, steel yards, automatic or computing scales, or other instruments to be used for the purpose of weighing or measuring, or to offer or expose the same for sale, or be interested directly or indirectly in the sale of the same in the city under a penalty of \$50 for every such offense.

(HISTORY: Section 82-65 m. from 2-183, File #881930, March 7, 1989; eff. March 25, 1989.

82-65 am. File #961523, Feb. 11, 1997; eff. Feb. 28, 1997.

82-65 am. File #980963, Dec. 18, 1998; eff. Jan. 1, 1999.)

82-67. Record of Weights and Measures Inspected; Reports. It shall be the duty of the commissioner of health to keep a record of all weights, measures, scales, scale beams, patent balances, steel yards, computing and automatic scales, and other instruments used for weighing or measuring, inspected by the commissioner, in which the commissioner shall state the name of the owner of the same and whether they are conformable to the city standards. The commissioner shall also keep a complete record of the work done by the commissioner and the inspectors.

(HISTORY: Section 82-67 m. from 2-184, File #881930, March 7, 1989; eff. March 25, 1989.

82-67 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

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